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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/802,961 | 03/12/2001 | Toyokazu Sugai | 1163-0329P | 2653 |

2292 7590 03/12/2007
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| EXAMINER |
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TRAN, HAI V

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| ART UNIT | PAPER NUMBER |
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2623

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| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

03/12/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/802,961

Applicant(s)

SUGAI ET AL.

Examiner

Hai Tran

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


**HAI TRAN
PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Applicants request withdrawal of the finality of the outstanding office action is denied because MPEP 706.07 (a) does not preclude an Examiner from making the second or any subsequent Office action on the merits final if the office action contains a new ground of rejection that was necessitated by applicant's amendment of the claims. As such, the finality of the outstanding office action is necessitated by Applicants' amendment of the claims dated 05/24/2006 and is proper.

Claims 1 and 20: Applicant argues (remark page 4), "First, the A/65 does not disclose a device that includes a table generator that determines which of said plurality of electronic program guide information tables needs to be generated based on said update information as claimed...it does not disclose or suggest how/when updated information tables should be generated by the provider. It merely requires the inclusion of a version number in the master guide table, in order to indicate which tables in the transport stream have been updated." In response, the Examiner respectfully disagrees with Applicant because A/65 inherently discloses a table generator (i.e., MGT) that determines which of the plurality of the EITs needs to be generated based on the update information. The Examiner cites (page 72), "The Master Guide Table (MGT) provides general information about all of the other tables ... it defines version numbers to identify those tables that need to be updated; and it gives the packet identifiers (PIDs) that label the table".

Applicant further argues, "Accordingly, even if one skilled in the art were motivated to combine Tokkaihei and the A/65 document, the combination would only result in a device that updates versions numbers in response to updated information tables. There is nothing in the A/65 document to prevent the APA device from continuing to generate all the tables in response to updated information and only updating the versions numbers in the master guide table for those tables containing new information."

In response, the Examiner respectfully disagrees with Applicant because A/65 document clearly discloses the APA device generates only table or tables that need(s) to be updated. The Examiner cites (page 73), "However, it is possible to regenerate one or several EITs at any time for correcting and/or updating the content (e.g. in cases where 'to be assigned' events become known). Regeneration of EITs is flagged by updating version fields in the MGT. For example, if table EIT-2 needs to be updated at 16:17 EDT, then the new table must be transmitted with a version number equal to 3."

As such the Examiner maintains the rejection..


HAI TRAN
PRIMARY EXAMINER